

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

C.A. NO. 05-11841-NG

NEW CINGULAR WIRELESS PCS LLC,
Plaintiff

v.

TOWN OF NORTH ANDOVER, MASSACHUSETTS
BOARD OF APPEALS of the TOWN OF NORTH
ANDOVER, ELLEN McINTYRE, RICHARD J.
BYERS, ALBERT P. MANZI III, JOSEPH D.
LaGRASSE, DAVID R. WEBSTER, DANIEL S.
BRAESE, THOMAS D. IPPOLITO, RICHARD M.
VAILLANCOURT, as they are Members and Associate
Members of the Board,

Defendants

DEFENDANTS' ANSWER TO AMENDED COMPLAINT

1. The last sentence is admitted and the Defendants are without information to form a belief as to the truth of the remaining allegations.

2. The Defendants are without information to form a belief as to the truth of the allegations.

3. The Defendants are without information to form a belief as to the truth of the allegations.

4. The Defendants are without information to form a belief as to the truth of the allegations.

5. The first sentence is denied and the Defendants are without information to form a belief as to the truth of the remaining allegations.

6. The Defendants are without information to form a belief as to the truth of the allegations.

7. The Defendants are without information to form a belief as to the truth of the allegations.

8. Admitted.

9. The Defendants admit that the Board is a duly constituted board of the Town but otherwise denies.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted.

20. The Defendants are without information to form a belief as to the truth of the allegations.

21. The allegations in this paragraph merely argue the theory of the Telecommunications Act which speaks for itself and, therefore, these allegations are denied.

22. The allegations in this paragraph merely argue the theory of the Telecommunications Act which speaks for itself and, therefore, these allegations are denied.

23. The Defendants are without information to form a belief as to the truth of the allegations.

24. The Defendants are without information to form a belief as to the truth of the allegations in the first sentence and admit the allegations in the second sentence.

25. Admitted.

26. The Defendants are without information to form a belief as to the truth of the allegations.

27. The Defendants are without information to form a belief as to the truth of the allegations.

28. Admitted.

29. The Defendants are without information to form a belief as to the truth of the allegations.

30. The Defendants are without information to form a belief as to the truth of the allegations.

31. The Defendants are without information to form a belief as to the truth of the allegations.

32. Denied.

33. Denied.

34. Admitted.

35. The Bylaw speaks for itself and, therefore, these allegations are denied.

36. Admitted.

37. The Defendants admit the second sentence and are without information to form a belief as to the truth of the allegations in the first and third sentences.

38. Admitted.

39. Admitted.

40. The Defendants are without information to form a belief as to the truth of the allegations.

41. The Defendants admit that Cingular submitted to the Board a report but the remaining allegations are denied.

42. Denied.

43. The Defendants are without information to form a belief as to the truth of the allegations.

44. Admitted.

45. The report speaks for itself and, therefore, these allegations are denied.

46. The Defendants are without information to form a belief as to the truth of the allegations.

47. The Defendants are without information to form a belief as to the truth of the allegations.

48. The Defendants are without information to form a belief as to the truth of the allegations.

49. The Defendants are without information to form a belief as to the truth of the allegations.

50. The Defendants are without information to form a belief as to the truth of the allegations.

51. Admitted.

52. Admitted.

53. Admitted.

54. Admitted that Cingular presented plans, radio frequency analysis, maps and a certification, but otherwise denied.

55. Denied.

56. The Defendants are without information to form a belief as to the truth of the allegations.

57. The Defendants are without information to form a belief as to the truth of the allegations.

58. Denied.

59. The Defendants are without information to form a belief as to the truth of the allegations.

60. The Defendants admit that various citizens voiced objections to the proposed facility, but otherwise the Board is without information to form a belief as to the truth of the allegations.

61. Admitted.

62. Admitted.

63. The Decision speaks for itself and, therefore, these allegations are denied.

64. The Decision speaks for itself and, therefore, these allegations are denied.

65. The Decision speaks for itself and, therefore, these allegations are denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. The Defendants repeat and incorporate herein their responses to Paragraphs 1 through 69.

71. Admitted.

72. Denied.

73. The Defendants are without information to form a belief as to the truth of the allegations.

74. The Defendants are without information to form a belief as to the truth of the allegations.

75. The Defendants are without information to form a belief as to the truth of the allegations.

76. Denied.

77. The Defendants repeat and incorporate herein their responses to Paragraphs 1 through 76.

78. Admitted.

79. Denied.

80. Denied.

81. The Defendants repeat and incorporate herein their responses to Paragraphs 1 through 80.

82. Admitted.

83. Denied.

84. The Defendants are without information to form a belief as to the truth of the allegations.

85. Denied.

86. The Defendants repeat and incorporate herein their responses to Paragraphs 1 through 85.

87. The Defendants admit the first sentence and are without information to form a belief as to the truth of the remaining allegations.

88. Denied.

89. The Defendants repeat and incorporate herein their responses to Paragraphs 1 through 88.

90. Denied.

91. The Defendants repeat and incorporate herein their responses to Paragraphs 1 through 90.

92. Denied.

93. The Defendants are without information to form a belief as to the truth of the allegations.

94. Denied.

95. The Defendants repeat and incorporate herein their responses to Paragraphs 1 through 94.

96. Denied.

97. Denied.

98. Denied.

99. The Defendants repeat and incorporate herein their responses to Paragraphs 1 through 98.

100. The Bylaw speaks for itself and, therefore, these allegations are denied.

101. The Defendants are without information to form a belief as to the truth of the allegations.

102. Denied.

103. The Defendants are without information to form a belief as to the truth of the allegations.

104. The Defendants are without information to form a belief as to the truth of the allegations.

105. The Defendants admit the first sentence and are without information to form a belief as to the truth of the allegations in the second sentence.

106. The Defendants admit the first sentence and are without information to form a belief as to the truth of the remaining allegations.

107. The regulation speaks for itself and, therefore, these allegations are denied.

108. The regulation speaks for itself and, therefore, these allegations are denied.

109. The Defendants are without information to form a belief as to the truth of the allegations.

110. The regulation speaks for itself and, therefore, these allegations are denied.

111. The Defendants are without information to form a belief as to the truth of the allegations.

112. The regulation speaks for itself and, therefore, these allegations are denied.

113. The regulation speaks for itself and, therefore, these allegations are denied.

114. The Defendants are without information to form a belief as to the truth of the allegations.

115. The Defendants are without information to form a belief as to the truth of the allegations.

116. Denied.

WHEREFORE, Defendants request that this Court enter judgment:

1. Dismissing this case;
2. Affirming the Decision of the North Andover Zoning Board of Appeals;
3. Award reasonable attorneys fees and costs; and
4. Award such other relief as this Court deems just and proper.

Date: December 15, 2005

TOWN OF NORTH ANDOVER, ET AL
By their attorney,



Thomas J. Urbelis, BBO #506560
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Boston, Massachusetts 02110
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CERTIFICATE OF SERVICE

I, Thomas J. Urbelis, hereby certify that I served a true copy of the above document by mailing same first-class mail, postage prepaid, to counsel of record Douglas H. Wilkins, Esquire, Anderson & Kreiger, LLP, 43 Thorndike Street, Cambridge, MA 02114 on this 15th day of December, 2005.



Thomas J. Urbelis